

Hon. Mr. Roberts

STOCK-FOODS

ANALYSIS

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A BILL INTITULED

AN ACT to make Provision for controlling the Sale of Title.
Stock-foods.

BE IT ENACTED by the General Assembly of New
5 Zealand in Parliament assembled, and by the authority
of the same, as follows:—

Short Title
and
commencement.

1. This Act may be cited as the Stock-foods Act, 1946, and shall come into force on the *first* day of *June*, nineteen hundred and forty-seven.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,—

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“Analyst” means an Analyst appointed under this Act:

“Inspector” means an Inspector appointed under this Act:

“Label” includes any brand, stamp, or writing 10
on any package of stock-food:

“Offering for sale” includes attempting to sell, or receiving for sale or having in possession for sale, or sending or delivering for sale, or causing or allowing to be offered, advertised, or exposed for sale; and “offer for 15
sale” has a corresponding meaning:

“Package” includes anything in or by which any stock-food may be cased, covered, enclosed, contained, or packed; and, in 20
relation to any stock-food that is not so cased, covered, enclosed, contained, or packed, includes any block, cake, or slab of stock-food:

“Percentage”, in relation to any chemical com- 25
ponent of a stock-food, means percentage by weight:

“Poultry” means domestic fowls, ducks, geese, and turkeys:

“Premises” includes any truck or vehicle of 30
any description:

“Sale” includes barter; and also includes causing or allowing to be sold; and “sell” has a corresponding meaning:

“Stock” means cattle, sheep, horses, pigs, or 35
poultry, of any age or sex; and includes such other animals as are declared, pursuant to subsection *two* of this section, to be stock for the purposes of this Act:

5 "Stock-food" means any substance or preparation manufactured or prepared in whole or in part from one or more than one kind of grain, seed, plant, oil, juice, meat, fish, or other source, and ordinarily used as food for stock:

10 "Vendor" means any person who, in the ordinary course of his business, sells or offers for sale, either on his own account or on behalf of any other person, any stock-food.

(2) The Governor-General may from time to time, by Warrant under his hand, declare that any animals of any species not specified in the definition of the term "stock" in subsection *one* of this section shall be 15 stock for the purposes of this Act. Any Warrant under this subsection may be at any time in like manner amended or revoked.

3. (1) There may from time to time be appointed, as officers of the Public Service, such Analysts, Inspectors, and other officers as are required for the purposes 20 of this Act, who shall have the powers and shall perform the duties set out in this Act, and shall have such other powers and shall perform such other duties as may be necessary to carry into effect the provisions of this Act 25 or as may be prescribed by regulations under this Act.

Appointment
of Analysts and
Inspectors, &c.

(2) Every Inspector of Stock appointed under the Stock Act, 1908, shall be deemed, for the purposes of this Act, to be an Inspector appointed under this Act.

See Reprint
of Statutes,
Vol. I, p. 311

4. (1) Every package of stock-food sold or offered 30 for sale by any vendor shall bear thereon or have securely affixed thereto a label containing, in legible characters, the following particulars:—

Labelling of
packages of
stock-food for
purposes of
sale.

(a) The name and business address of the vendor:
(b) The name of the stock-food and the trade-mark 35 (if any) used in respect thereof:

(c) The net weight of the stock-food contained in the package.

(2) For the purposes of paragraph (b) of subsection *one* of this section,—

- (a) If the stock-food is a meat-meal containing less than sixty per centum of crude protein (allowing one per centum of nitrogen as equivalent to six and one-quarter per centum of protein) it shall be deemed to be meat and bone meal and shall accordingly be named on the package or label as meat and bone meal: 5
- (b) If the stock-food is bran or pollard, the name specified on the package or label shall be a name indicating the grain or seed of which the stock-food is a product. 10

(3) If any of the provisions of this section are contravened or not complied with in respect of any package of stock-food sold or offered for sale as aforesaid the vendor shall be deemed to have committed an offence against this Act. 15

Invoice or label
to be supplied
to purchaser.

5. (1) Subject to the provisions of this section, every vendor shall, at the time of the sale by him of any stock-food, or as soon thereafter as is reasonably practicable, deliver or post to the purchaser an invoice containing the following particulars:— 20

- (a) The name and business address of the vendor:
- (b) The name of the stock-food and the trade-mark (if any) used in respect thereof:
- (c) The number of packages (if any) of the stock-food comprised in the sale: 25
- (d) The total net weight of the stock-food comprised in the sale:
- (e) Where the stock-food contains more than one ingredient, the name of each of the ingredients: 30
- (f) Such particulars of the chemical composition of the stock-food as are specified in the second column of the *First Schedule* to this Act in relation to the class, as specified in the first column of that Schedule, to which the stock-food belongs. 35

(2) Where the stock-food is a feeding-oil, the invoice shall, in addition to the particulars required by subsection *one* of this section, contain the following particulars:— 40

- (a) The source or sources from which the oil was prepared:

(b) A statement to the effect that the oil is suitable or, as the case may require, unsuitable for use as food for poultry.

(3) Where any stock-food is sold in a package, it shall not be necessary for the vendor to supply such invoice as aforesaid if the particulars required by this section are legibly set out in any label on or securely affixed to the package.

(4) Every vendor commits an offence against this Act who contravenes or fails to comply in any respect with any of the provisions of this section.

(5) The failure by any vendor to supply any invoice or label in accordance with this section shall not invalidate any sale or contract for the sale of any stock-food.

15 6. Nothing in section *four* or section *five* of this Act shall apply with respect to the sale of any stock-food, being stock-food previously purchased by the vendor, in a package other than the package in which he purchased it, if—

Modification of last two preceding sections.

20 (a) The sale is for any purpose other than resale; and

(b) The vendor has in his possession at the time of the sale an invoice or label supplied to him in respect of the stock-food pursuant to the said section *five* and complying with the provisions of that section; and

25 (c) The vendor, on demand made by the purchaser at or before the time of the sale or within a reasonable time thereafter, produces such invoice or label as aforesaid for inspection by the purchaser.

30 7. (1) Subject to the provisions of this section, every invoice or label supplied by a vendor pursuant to section *five* of this Act to any purchaser of any stock-food shall have effect as a written warranty by the vendor to the purchaser—

Invoice or label to have effect as a warranty.

(a) That the stock-food contains only the ingredients specified in the invoice or label:

40 (b) That the stock-food is suitable for use as food for stock and for the particular kind of stock (if any) specified in the invoice or label:

(c) That the particulars contained in the invoice or label as to the number of packages and the total net weight of the stock-food comprised in the sale, and as to the chemical composition of the stock-food, are correct. 5

(2) No action shall lie on any warranty under this section in respect of any misstatement as to the percentage of any chemical component of the stock-food if the extent to which such percentage was misstated does not exceed the limits of variation (if any) prescribed in respect of that component by regulations under this Act. 10

Sale of stock-food not of prescribed standard of quality or composition.

8. Every vendor commits an offence against this Act who sells or offers for sale any stock-food which is not in all material respects of the standard of quality, purity, and composition prescribed in respect of stock-foods of that kind by regulations under this Act. 15

Sale of stock-food containing injurious ingredients.

9. (1) No person shall sell or offer for sale any stock-food containing any ingredient that is injurious to the health of stock. 20

(2) For the purposes of this section any substance of any class mentioned in the *Second* Schedule to this Act shall, if present in a stock-food or, as the case may be, if present therein in a proportion specified in that Schedule in respect of substances of that class, be deemed to be an ingredient injurious to the health of stock unless the contrary is proved. 25

(3) Every person commits an offence against this Act who contravenes or fails to comply in any respect with the provisions of this section: 30

Provided that it shall be a good defence in any proceedings for an offence under this section if the defendant proves that he did not know and could not, with the exercise of reasonable care, have known that the stock-food contained the ingredient in respect of which the proceedings are taken. 35

Power of Inspectors to take samples.

10. (1) Any Inspector may at all reasonable times enter upon the premises of any vendor, and may, without payment, take a sample of any stock-food found thereon. 40

(2) Every person who obstructs an Inspector in the exercise of his powers under this section commits an offence against this Act.

5 11. (1) Every sample taken by an Inspector shall
be taken in the prescribed manner in the presence of
the vendor if he is available, or, if he is not available,
then in the presence of some other witness. If the
sample is taken on the premises of the vendor, he shall
supply any assistance the Inspector requires.

How sample
to be taken.

10 (2) The Inspector, in the presence of the vendor, or,
as the case may be, of such other witness as aforesaid,
shall then divide each sample into three parts, and shall
seal each part with an official seal.

15 (3) The Inspector shall leave with or deliver to the
vendor one part, and shall deliver a second part to
an Analyst, accompanied by the invoice given in
accordance with the *next succeeding* subsection. The
third part shall be retained by the Inspector, and shall
be sealed by the vendor if he is present and so desires.

20 (4) With each sample taken under this section there
shall be supplied by the vendor to the Inspector an
invoice in the same form and containing the same par-
ticulars as if it were an invoice given under section *five*
hereof.

25 (5) Delivery of a sample to an Analyst or to a
vendor may be effected either personally by the
Inspector, or by posting it by registered post to the
usual address of the Analyst or vendor, as the case
may be.

30 12. (1) The Analyst shall on receiving the sample
divide it into two approximately equal portions, one
of which he shall fasten up and seal in a suitable vessel
for production, if required, in any proceedings that
may thereafter be taken in the matter.

Analysis of
sample and
certificate of
Analyst.

35 (2) He shall analyse the remaining portion and
shall set out the result in a certificate of analysis in
the prescribed form.

(3) The result of the analysis shall be compared
with the particulars contained in the invoice given in
40 accordance with section *eleven* hereof, and if there is
a discrepancy between the result of the analysis and
such particulars the Analyst shall add to the certificate

of analysis a statement as to whether or not in his opinion the discrepancy, after allowing for any prescribed limits of variation in respect of any ingredient, would be materially to the prejudice of a purchaser.

(4) Where on analysis and comparison a discrepancy that would be materially prejudicial to a purchaser is found in any sample, a copy of the Analyst's certificate shall be forwarded to the vendor of the stock-food from which the sample was taken. In any other case the vendor may obtain a copy of the Analyst's certificate on payment of the prescribed fee.

Analysis on
request of
purchaser.

13. (1) The purchaser of any stock-food may at any time notify an Inspector in writing that he desires him to take a sample of the stock-food.

(2) On payment of the prescribed fee the Inspector shall attend at the place mentioned in the notice and take a sample of the stock-food for analysis as hereinafter provided.

(3) Not less than four clear days' notice shall be given to the vendor of the stock-food by the Inspector of the time and place at which he intends to take the sample.

(4) The vendor or his agent shall be at liberty to attend at the time and place specified in the notice.

(5) The Inspector shall satisfy himself as far as possible that the packages containing the stock-food are in a sound condition, that they have been properly stored, and that they have not been opened or tampered with in any way.

(6) Subject to the foregoing provisions of this section, the sample shall be taken and analysed in accordance with sections *eleven* and *twelve* of this Act, and all the provisions of those sections shall apply accordingly. A copy of the certificate of analysis shall also be forwarded to the purchaser.

(7) If the result of the analysis shows that the stock-food is not materially at variance with the particulars contained in any invoice or label supplied, pursuant to this Act, to the purchaser when he bought the stock-food, the vendor shall be entitled to any reasonable expenses to which he may have been put in attending at the place at which the sample was taken or in supplying an invoice to the Inspector under this section, and may recover such expenses as a debt due to him by the purchaser.

14. (1) In any proceedings under this Act the production by the prosecutor of a certificate of analysis purporting to be signed by an Analyst shall, without proof of the signature of the Analyst, be sufficient
 5 evidence of the facts stated therein, unless the defendant requires that the Analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the date of the hearing.

Analyst's certificate to be prima facie evidence.

10 (2) In like manner the production by the defendant of a certificate of analysis purporting to be signed by an analyst shall, without proof of the signature of the analyst, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst
 15 be called as a witness.

(3) A copy of such last-mentioned certificate shall be sent to the prosecutor at least three clear days before the date of the hearing, and if it is not so sent the Court may adjourn the hearing on such terms as
 20 it thinks proper.

15. In any proceedings under this Act the Court may order that the part of the sample retained by the Inspector under section *eleven* hereof be divided into two parts in the presence of the vendor or his
 25 agent, and that each of such parts be submitted to an independent analyst, whether or not he is an Analyst appointed under this Act, for his report.

Independent analysis.

16. Every person commits an offence against this Act who—

30 (a) Knowingly and fraudulently tampers with any stock-food so as to procure that a sample of it taken in pursuance of this Act is not a fair sample of the stock-food:

35 (b) Improperly breaks the seal of or tampers with any part of a sample taken in pursuance of this Act.

Tampering with sample.

17. Every vendor commits an offence against this Act who—

40 (a) On the sale of any stock-food, supplies an invoice or label containing any false or misleading statement relating to the stock-food if the statement is materially prejudicial to the purchaser:

False statements in invoices, labels, and advertisements.

(b) On the taking by an Inspector of any sample pursuant to this Act, supplies an invoice containing any false or misleading statement relating to the stock-food if the statement would be materially prejudicial to a purchaser of the stock-food: 5

(c) Publishes or causes to be published in respect of any stock-food any circular or advertisement containing any false or misleading statement purporting to indicate the nature, quality, purity, or composition of the stock-food if the statement would be materially prejudicial to a purchaser of the stock-food. 10

General penalty for offences.

18. Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on summary conviction to a fine not exceeding *fifty* pounds. 15

Time for laying informations. See Reprint of Statutes, Vol. II, p. 351

19. Notwithstanding anything to the contrary in the Justices of the Peace Act, 1927, any information in respect of any offence against this Act or against any regulations made under this Act may be laid at any time within twelve months after the commission of the offence. 20

Relief from liability under the Patents, Designs, and Trade-marks Act, 1908, in certain cases. See Reprint of Statutes, Vol. VI, p. 648

20. Where pursuant to this Act a description is applied to any stock-food, and the description is a trade description within the meaning of section eighty-three of the Patents, Designs, and Trade-marks Act, 1908, no proceedings for an offence shall be taken under that Act on the ground that the description so applied is a false trade description. 25 30

Remedy of vendor against prior vendor.

21. Any vendor convicted of an offence against this Act for supplying any invoice or label containing any false or misleading statement relating to a stock-food may, in any action brought by him against any other person for misrepresentation or for breach of warranty on the sale to him of the stock-food in the first instance, recover, either alone or in addition to any other damages recoverable by him, the amount of the penalty paid by him on such conviction, together with the costs paid by him in respect of his defence to the charge, if he proves— 35 40

- 5 (a) That the stock-food to which the statement related was sold to him by the defendant whose invoice or label contained the like particulars to those contained in the invoice or label supplied by him upon the sale in respect of which he was convicted; and
- 10 (b) That he purchased the stock-food not knowing it to be otherwise than as stated in the invoice or label received by him, and sold it in the same state as that in which he received it:

Provided that it shall be open to the defendant in the action to prove that the conviction was wrongful.

- 15 **22.** (1) The Director-General of the Department of Agriculture may from time to time, in such manner as he thinks fit, publish the results of any experiments made with any stock-food or the results of any analysis thereof made under this Act or any particulars relating to the stock-food, if, in his opinion, based on the results of such experiments or analysis, the publication of such
- 20 results or particulars is necessary for the protection of purchasers or is otherwise in the public interest.

Publication of results of experiments and analyses.

- (2) No action shall lie against the Director-General or any other person in respect of the publication of any matter pursuant to this section.

- 25 **23.** (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

Regulations.

- 30 (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes—

- 35 (a) Prescribing the forms required under this Act:
 (b) Prescribing the fees payable under this Act:
 (c) Prescribing the manner of taking samples under this Act:
 40 (d) Prescribing methods of analysis for determining the percentage of crude protein, crude fat, crude fibre, common salt, ash, moisture, or any other ingredient contained in any stock-food:

- (e) Prescribing methods for the determination of vitamin A and vitamin D content in any stock-food:
- (f) Prescribing limits of variation allowable in setting out in invoices or labels the percentages of the chemical components of any stock-food: 5
- (g) Exempting any specified stock-food from all or any of the provisions of this Act:
- (h) Prescribing standards of quality, purity, and composition in respect of any stock-food: 10
- (i) Prescribing the powers and duties of Analysts and Inspectors.

(2) All regulations made under this section shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, then within fourteen days after the commencement of the next ensuing session. 15

24. Nothing in this Act shall apply with respect to the sale to any person, for any purpose other than resale, of any stock-food manufactured or prepared— 20

- (a) Solely from materials supplied by him; or
- (b) Pursuant to, and in accordance with, an order in writing from that person prescribing the ingredients and the proportions thereof to be contained in the stock-food. 25

25. Nothing in this Act shall be construed to limit the provisions of the Stock-remedies Act, 1934, or of the Poisons Act, 1934, or of the Dangerous Drugs Act, 1927, or of any other Act. 30

Act not to
apply to
certain sales.

Other Acts
not affected.
1934, No. 5
1934, No. 18
See Reprint
of Statutes,
Vol. III, p. 394

SCHEDULES

Schedules.

FIRST SCHEDULE

PARTICULARS OF CHEMICAL COMPOSITION TO BE CONTAINED IN INVOICE OR LABEL

Section 5

| <i>First Column.</i> Class of Stock-food. | <i>Second Column.</i> Particulars required. |
|--|--|
| 1. Wheaten bran or wheaten pollard ; or any stock-food consisting solely of whole grains, seeds, or pulses or solely of any mixture thereof | None. |
| 2. Bran or pollard (not being wheaten bran or wheaten pollard) or any stock-food which is the product of any one kind of grain, seed, or plant | The maximum percentage of crude fibre. |
| 3. Meat-meal, or meat and bone meal . . | (a) The minimum percentage of crude protein (allowing 1 per centum of nitrogen as equivalent to 6.25 per centum of protein). (b) The maximum percentage of fat. (c) The maximum percentage of ash. (d) The maximum percentage of moisture. |
| 4. Any feeding-oil | (a) The minimum vitamin A content expressed in international units. (b) The minimum vitamin D content expressed in international units or, if the feeding-oil is sold as being suitable for use as food for poultry, expressed in chick units. |
| 5. Fish-meal | (a) The minimum percentage of crude protein (allowing 1 per centum of nitrogen as equivalent to 6.25 per centum of protein). (b) The maximum percentage of common salt (sodium chloride). (c) The maximum percentage of crude fat. |
| 6. Any stock-food (including any mash) of a class not specified in the foregoing provisions of this Schedule | (a) The minimum percentage of crude protein (allowing 1 per centum of nitrogen as equivalent to 6.25 per centum of protein). (b) The maximum percentage of crude fat. (c) The maximum percentage of crude fibre. (d) The maximum percentage of common salt (sodium chloride). (e) The percentage of every other mineral if it is present in excess of 2 per centum or if the total proportion of all such other minerals, when combined, exceeds 2 per centum. |

NOTE.—Every percentage is to be stated as a percentage by weight.

SECOND SCHEDULE

Section 9

INJURIOUS INGREDIENTS IN STOCK-FOODS

1. All poisonous substances except those naturally present in the material or materials from which the stock-food is prepared.

2. Salts soluble in water, if present in proportions likely to be injurious to the health of stock.

3. Sand, silicious matter, or other insoluble mineral matter—

(a) Not naturally associated with any ingredient (not being an ingredient coming within either of the classes mentioned in clauses 1 and 2 of this Schedule) of the stock-food; or

(b) Naturally so associated, if present in greater proportion than the maximum that may be expected to be due to such natural association.

For the purposes of this clause,—

“Insoluble” means insoluble in hydrochloric acid of the prescribed strength:

“Natural association”, in relation to any mineral matter, shall be construed as applying with respect to average commercial samples of the ingredient of the stock-food with which it may be claimed that the mineral matter is associated.